

USDA
OALJ/OHC
PH 3:33
RECEIVED

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket No. 12-0653
)
David Still and)
Gloria Still,)
)
Respondents) Complaint

There is reason to believe that the respondents named herein willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), hereinafter referred to as the Act, and the regulations and standards (9 C.F.R. § 1.1 et seq.) issued pursuant to the Act, and, therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

A. David Still and Gloria Still hereinafter referred to as the respondents, are individuals whose address is 9729 Highway C, Purdy, Missouri 65734.

B. The respondents, at all times material hereto, had a license to operate as a Class A breeder as defined in the regulations 9 C.F.R. § 1.1.

C. The respondents' license number under the Animal Welfare

Act is 43-A-3753. The respondents acknowledged in writing on their application for license renewal that they received the regulations and standards contained in 9 C.F.R. Subpart A, Parts 1,2 and 3.

II

A. On July 22, 2011, APHIS inspected the respondents premises and found that the respondents failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

B. On July 22, 2011, APHIS inspected the respondents' facility and found the following willful violations of section 2.100(a) of the regulations(9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities and areas used for storing animal food or bedding were not free of any accumulation of trash, waste material, junk, weeds, and other discarded materials(9 C.F.R. § 3.1(b));

2. The sheltered parts of sheltered housing facilities for dogs were not sufficiently cooled when necessary to protect the dogs from temperature or humidity extremes and to provide for their health and well-being since the ambient temperature was above 85°F (29.5°C) which affected at least 66 dogs (9 C.F.R. §

3.3(a));

3. The interior height of the primary enclosures for dogs was not at least 6 inches higher than the head of the tallest dog in the enclosure when it is in a normal standing position (9 C.F.R. § 3.6(c)(1)(iii)); and

4. Dogs were not provided with potable water and watering receptacles for dogs were not kept clean and sanitized (9 C.F.R. § 3.10).

III

A. On March 31, 2011 the respondents interfered with, threatened, abused (including verbal abuse), or harassed APHIS employees in the course of carrying out their duties including but not limited to telling APHIS employees to leave the respondents' premises and yelling at APHIS employees in willful violation of section 2.4 of the regulations (9 C.F.R. § 2.40).

B. On March 31, 2011, APHIS inspected the respondents' premises and found that the respondents failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

C. On March 31, 2011, the respondents refused to permit

APHIS employees to conduct a complete inspection of their animal facilities and records, in willful violation of section 16 of the Act (7 U.S.C. § 2146) and section 2.126 of the regulations (9 C.F.R. § 2.126).

D. On or about March 31, 2011, APHIS conducted a partial inspection of the respondents' facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities for dogs were not structurally sound and maintained in good repair so as to protect the animals from injury, contain the animals securely, and restrict other animals from entering (9 C.F.R. § 3.1(a));

2. The supplies for dogs were not stored off the floor and away from the walls, to allow cleaning underneath and around the supplies (9 C.F.R. § 3.1(e)); and

3. The interior height of the primary enclosures for dogs was not at least 6 inches higher than the head of the tallest dog in the enclosure when it was in a normal standing position (9 C.F.R. § 3.6(c)(1)(iii)).

IV

On August 17, 2010, APHIS inspected the respondents'

facility and found the following willful violations of section 2.100(a) of the regulations(9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities and areas used for storing animal food or bedding were not free of any accumulation of trash, waste material, junk, weeds, and other discarded materials(9 C.F.R. § 3.1(b));

2. Supplies of food and bedding were not stored in a manner that protects them from spoilage, contamination, and vermin infestation (9 C.F.R. § 3.1(e));

3. Housing facilities were not equipped with disposal facilities and a drainage system that was constructed and operated to provide for animal waste and water to be rapidly eliminated (9 C.F.R. 3.1(f));

4. Dogs were not provided with potable water and watering receptacles for dogs were not kept clean and sanitized (9 C.F.R. § 3.10);

5. The premises including buildings and surrounding grounds, were not kept in good repair, and clean and free of trash, junk, waste, and discarded matter, and weeds, grasses and bushes were not controlled, in order to protect the animals from injury, and facilitate the required husbandry practices(9 C.F.R

§ 3.11(c)); and

6. An effective program for the control of pests was not established and maintained so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas (9 C.F.R. § 3.11(d)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and the regulations and standards issued under the Act, this complaint shall be served upon the respondents. The respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

2. That such order or orders be issued as are authorized

by the Act and warranted under the circumstances, including an order:

(a) Requiring the respondents to cease and desist from violating the Act and the regulations and standards issued thereunder;

(b) Assessing civil penalties against the respondents in accordance with section 19 of the Act (7 U.S.C. § 2149); and

(c) Permanently revoking the respondents' license or suspending the respondents' license or disqualifying the respondents from applying for a license under the Act.

Done at Washington, D.C.

this 6th day of August, 2012



Acting

Administrator
Animal and Plant Health
Inspection Service

Sharlene Deskins
Attorney for Complainant
Office of the General Counsel
United States Department of
Agriculture
Washington, D.C. 20250-1417
MAIL STOP 1417
1400 Independence Ave., S.W.
Telephone (202) 720-2595